

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

JUL 23 2010

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2010-0055-PR
)	DEPARTMENT B
Respondent,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
AARON P. AGREGAARD,)	the Supreme Court
)	
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20022124

Honorable Jan E. Kearney, Judge

REVIEW GRANTED; RELIEF DENIED

Barbara LaWall, Pima County Attorney
By Jacob R. Lines

Tucson
Attorneys for Respondent

Aaron P. Agreggaard

Florence
In Propria Persona

ECKERSTROM, Judge.

¶1 Following a jury trial in 2003, petitioner Aaron Agreggaard was convicted of kidnapping, a class two felony, and burglary, a class three felony, both committed for the purpose of sexual gratification; sexual abuse, a class five felony; and misdemeanor

assault. The trial court sentenced him to concurrent, partially aggravated and aggravated prison terms for the kidnapping, sexual abuse, and assault convictions, the longest of which was sixteen years, and to a consecutive, aggravated term of seven years' imprisonment for the burglary conviction. Agreggaard appealed and this court affirmed the convictions and the sentences imposed. *State v. Agreggaard*, No. 2 CA-CR 2003-0279 (memorandum decision filed Oct. 12, 2005).

¶2 In July 2006, Agreggaard filed a notice of post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P., and in June and August 2008 he filed two lengthy, pro se petitions in which he raised a multitude of claims.¹ Noting it had “struggled to define [Agreggaard]’s claims raised in his voluminous petition sufficiently to rule on them,” the trial court denied relief in a fourteen-page minute entry order after conducting a three-day evidentiary hearing in April, June, and July 2009 on Agreggaard’s claim that trial counsel had been ineffective following the arraignment and in failing to adequately investigate and present witnesses at trial and sentencing. Agreggaard examined both of his trial attorneys extensively at the evidentiary hearing. The court denied the petition for post-conviction relief and also denied Agreggaard’s motion for rehearing. This pro se petition for review followed. “We will not disturb a trial court’s ruling on a petition for post-conviction relief absent a clear abuse of discretion.” *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). We find no abuse here.

¶3 On review, Agreggaard claims, *inter alia*, that the trial court abused its discretion by denying relief on his claims of ineffective assistance of counsel, and that his speedy trial rights, and a variety of other constitutional rights, were violated. He further

¹After appointed counsel filed a notice in lieu of petition for post-conviction relief asserting he had been unable to find any colorable claims to raise on Agreggaard’s behalf, the trial court permitted Agreggaard to proceed in propria persona, directing counsel to act in an advisory capacity.

claims, without providing specific citations to the relevant transcripts, that the court prevented him from developing and asserting his arguments at the evidentiary hearing, and that it “failed to define and address or respond to” the claims he “concisely and clearly outlined in his Rule 32 petition.” He asks us to reverse his convictions and sentences and to dismiss the charges against him with prejudice, or to remand for a new trial.

¶4 Based on the record before us, and to the extent we understand the claims Agreggaard has raised on review, we cannot say the trial court abused its discretion in denying Agreggaard’s petition for post-conviction relief. As best it could, the court clearly identified the claims Agreggaard had raised and resolved them correctly in its thorough, well-reasoned minute entry order. No purpose would be served in reiterating the court’s ruling here; rather, because Agreggaard has not sustained his burden of establishing the trial court abused its discretion, we approve and adopt the order. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993).

¶5 We grant the petition for review, but for the reasons stated, we deny relief.

/s/ Peter J. Eckerstrom
PETER J. ECKERSTROM, Judge

CONCURRING:

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge